DIVISION II:
CIVIL

CHAPTER 1
GENERAL POLICIES AND PROCEDURES

Rule 2.1.1

Policy

It is the policy of the courts to manage all cases in accordance with the Standards of Judicial Administration, Appendix to the California Rules of Court. Nothing in the Appendix prevents the courts from issuing an exception order based on a specific finding that the interests of justice require a modification of the routine processes as prescribed. However, no procedure or deadline established by these rules or order of the court may be modified, extended or avoided by stipulation or agreement of the parties, except as permitted by section 68616 of the Government Code, unless approved by the court in advance of the date sought to be altered.
(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.1.2

Filing and Service of Papers

Unless specifically directed otherwise, all papers must be filed in the civil business office of the appropriate division.

A. Forms. Photocopies or computer generated duplicates of Judicial Council and court forms may be used only if the copies are clear, legible, easily readable, the same color as the original, and submitted on the same type of paper (e.g., NCR).

B. Conformed Copies. The court will conform only one copy of each original submitted for filing. If conformed copies are to be returned by mail or messenger, a stamped, self-addressed envelope or messenger slip must be included.

C. Proofs of Service. Proofs of service must be signed by the person who actually accomplished the service. Where forms of service involve more than one component, declarations must be signed by each person completing a component. For example, substituted service of summons is often accomplished by one person doing the substituted service in the field while another completes the service by mailing the copies to the named defendant. In that case, declarations must be signed by each.
(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2009)

Rule 2.1.3

Case Assignment

At the time an action is filed, it will be assigned either to the master calendar or to a judge for all purposes. A Notice of Case Assignment, which includes the name, physical location, and department of the assigned judge, if any, and a Stipulation to Use of Alternative Dispute Resolution Process form may be generated at the time the case is filed. It is mandatory that the plaintiff or cross-complainant serve all defendants with a copy of the Notice of Case Assignment and other documents as set out in rule 2.1.5.

All construction defect cases in the county will be assigned to one of the designated construction defect departments in the Central Division. Any pre-litigation petition brought to the court pursuant to Civil Code section 1375, subdivision (n), will be assigned a case number and assigned to a designated construction defect department in the Central Division. Any construction defect complaint filed after completion of the pre-litigation requirements of Civil Code section 1375 et seq., will be assigned the same case number as any pre-litigation case number existing for the action.
(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Rev. 1/1/2004; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.1.4

Reserved for Future Use
(Del. 1/1/2008)

Rule 2.1.5

Service of Complaint

Within 60 days of the filing of the complaint, a Certificate of Service must be filed with the court, unless a Certificate of Progress has been filed indicating why service has not been effected on all parties and what is being done to effect service. A general appearance by, or entry of default against one or more defendants, does not dispense with plaintiff's obligation to file a Certificate of Service. Compliance with this rule may be reviewed at the initial case management conference.

To qualify for other than personal service of a complaint and summons under section 415.20 et seq. of the Code of Civil Procedure, personal service must be attempted on at least three different days at three different times of day. All attempts cannot be in the a.m. nor all in the p.m. At least one of the three attempts must be before 8 a.m. or after 5:30 p.m., and at least one of the three attempts must be between the hours of 8 a.m. and 5:30 p.m. or on Saturday or Sunday at any time. If service is attempted at a business address, all three attempts may be made during the normal business hours of that business.

If service by publication or some other method of service requiring leave of court cannot be completed within 60 days of the filing of the complaint, the last paragraph of the proposed order permitting such service must contain a blank space for the court to specify the date by which a proof of service and/or a Certificate of Service must be filed. A Certificate of Progress does not need to be filed in this instance.

The following must be served with the complaint:

A. The Notice of Case Assignment (rule 2.1.3);

B. A notice of the amount of special and general damages if the complaint seeks to recover damages for personal injury or wrongful death;

C. A notice of the amount of punitive damages sought; and

D. ADR information materials.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Renum. 1/1/2006)

Rule 2.1.6

Defendant's Appearance

Unless a special appearance is made, each defendant served must generally appear (as defined in Code Civ. Proc., § 1014) within the time required by the Code of Civil Procedure, or within 15 days thereafter if the parties have stipulated to extend that time.

If a defendant is unable to make a timely general appearance, a Certificate of Inability to Respond must be filed and served stating why a responsive pleading could not be filed. The filing of a Certificate of Inability to Respond constitutes a general appearance for purposes of these rules.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 7/1/2003; Rev 1/1/2005; Renum. 1/1/2006)

Rule 2.1.7

Request for Entry of Default

If a defendant does not make a general appearance within the time provided by statute, or makes an unsuccessful motion to quash, stay, or dismiss the action on the grounds of inconvenient forum or improper court, and thereafter fails to plead within the time provided by statute or in these rules, the plaintiff must request entry of default forthwith.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.1.8

Default Judgment

Applications for default judgment should be submitted on declarations pursuant to section 585, subdivision (d), of the Code of Civil Procedure. See the Civil forms area of the court's web site for the most recent version (http://www.sdcourt.ca.gov/portal/page?_pageid=55,1058589,55_1058635&_dad=portal&_schema=PORTAL).
The court will notify the parties if an oral prove-up hearing or additional documentary evidence is required. (See rule 2.5.11, Default Attorney Fee Schedule.)

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Renum. 1/1/2006; Rev. 1/1/2009)

Rule 2.1.9

Case Management Conference

The court expects the complaint and any cross-complaints will be served, all answers filed or defaults entered, and any challenges to the pleadings heard by the time of the initial case management conference.

A. Scheduling and Notice. Civil cases (excluding unlawful detainers) may, in the court's discretion, be set for a case management conference approximately 150 days after the complaint is filed. The court will give notice of the case management conference to all parties. Further, parties must serve by mail within 10 days of the date of the notice a copy of such notice on all parties who have been brought into the action who were not included in the court's proof of service. Proofs of such service must be filed simultaneously with the court and accompanied by a declaration stating the name of the party served; the name, address and phone number of the party's counsel of record, if any; and the nature and status of the party's involvement in the case.

Case management conferences will also be set by the court in all cases transferred from another court, reclassified pursuant to the Code of Civil Procedure, or stayed as provided in rule 2.1.13, and in unlawful detainer actions in which the defendant has filed an answer and the court has been notified that possession is no longer in issue.

It is the policy of the court to hold the case management conference on the date originally set. Continuances may be requested ex parte with a declaration showing good cause why the conference should be continued. However, if a disposition as to all parties has been filed with the court at least five court days prior to the hearing date, the case will be taken off calendar and no appearances will be required.

This rule remains in effect after July 1, 2002, notwithstanding California Rules of Court, rule 3.20, by the authority granted in California Rules of Court, rule 3.722, to the effect that "[t]he court may provide by local rule for the time and manner of giving notice of the parties."

B. Preparation for Conference. The primary focus of the initial case management conference will be to determine the status of the case to ensure compliance with the policy as stated in rule 2.1.1 and to determine if alternative dispute resolution would be appropriate.

A Case Management Statement must be completed by each party and timely filed with the court. Parties will not be required to complete a Case Management Statement for subsequent conferences unless ordered to do so by the court.

Parties completely familiar with the case and possessing authority to enter into stipulations must be present or appear pursuant to California Rules of Court, rule 3.670, at the case management conference and must be fully prepared to discuss any issues addressed by a Case Management Statement and all other matters specified in the notice of hearing provided by the court. Any attorney making a special appearance for counsel of record must have actual knowledge of the facts and procedural history of the case. If a party is not fully prepared, the court may continue the hearing and impose sanctions against the offending party. If the hearing proceeds as scheduled, the orders made will not be subject to reconsideration due to a party's unfamiliarity with the case at the time of the hearing.

(Adopted 1/1/1998; Rev. 1/1/2001; Renum. 7/1/2001; Rev. 7/1/2002; Rev. 1/1/2003; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009)

Rule 2.1.10

Cases "At Issue"

Cases may be deemed "at issue" when all parties are before the court and challenges to pleadings are complete, or the deadlines set by the court for the completion of these events have passed. This is usually determined by the court at the initial case management conference. Parties wishing an earlier determination and/or who seek referral to alternative dispute resolution, and/or who seek preferential trial setting may do so by ex parte request. No new parties may be substituted by "Doe" designation or added by amendment of pleadings after the case is deemed at issue, without leave of court.

Unless the court orders otherwise, all amendments to pleadings allowed after the case is at issue will be deemed filed and served on the date leave to amend is granted. If the amendment adds a new party, the new party must be served within 30 days of the date leave to amend was granted and the proof of service on the new party must be filed with the court. Upon the appearance of a new party, the case will remain at issue, unless otherwise ordered. If the new party is not timely served with process, the new party may be dismissed by the court and/or other sanctions may be imposed.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.1.11

Expert Witnesses

The court will propose deadlines for the exchange of information concerning expert witnesses and their discoverable reports and writings in accordance with section 2034 of the Code of Civil Procedure at the case management conference. Although the demand requirement of that section may be dispensed with at this hearing, all other provisions of section 2034 of the Code of Civil Procedure will be strictly enforced by the court.

Excessive expert fees are limiting access to the court and undermining the quality of justice. It is the policy of the court that, in addition to the criteria required to be considered in deciding motions brought pursuant to section 2034, subdivision (i)(4) of the Code of Civil Procedure, the court will consider the ordinary and customary fees charged by similar experts for similar services within the relevant community.

Parties will be permitted to designate only those experts they in fact intend to call at trial. It is the policy of the court that parties are limited to one expert per field of expertise per side, pursuant to section 723 of the Evidence Code, absent a court order to the contrary. The court will determine which parties constitute "a side" at trial, if necessary.

Expert testimony must not be used simply to advocate a particular position, and must be limited in scope in accordance with section 801, subdivision (a) of the Evidence Code to opinions on subjects which are sufficiently beyond common experience that an expert's opinion will assist the trier of fact.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001, Renum. 1/1/2006; Rev. 1/1/2008)

Rule 2.1.12

Reserved for Future Use

(Adopted 1/1/1998; Rev. 1/1/1999; Rev. 1/1/2000; Renum. 7/1/2001; Rev. & Renum. 1/1/2006; Del. 1/1/2009)

Rule 2.1.13

Stays of Actions

If a party files a notice of stay in accordance with the California Rules of Court, the court may either stay the action or set the matter for hearing. At the time of that hearing, the court may propose dismissing the action without prejudice, and reserving jurisdiction to reinstate the case nunc pro tunc when the stay is no longer in effect. Alternatively, parties are encouraged to stipulate to the dismissal of such cases without prejudice, expressly reserving the court's jurisdiction to set aside the dismissal and reinstate the case nunc pro tunc when the stay is no longer in effect. If the court stays the action without setting the matter for hearing, any party who claims to be exempt from the stay and who seeks to prosecute the action further must object by noticed motion in the stayed action.

Upon the expiration of the stay period, an action may be dismissed unless good cause has previously been shown, in writing, to the contrary. The stay may be extended for additional periods for good cause shown.
(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008)

Rule 2.1.14

Structured/Conditional Settlements, Taking Matters Off Calendar

Upon conditional settlement of a case, parties must notify the court as follows:

A. The parties are required to give notice to the court whether the conditional settlement either 1) contains a stipulation to immediate dismissal with a reservation of jurisdiction to set aside the dismissal and enter judgment upon nonperformance or 2) does not contain such a stipulation and requires dismissal only after full performance of the settlement terms.

B. Removal of pending matters from the court calendar may be effected by telephone, in the discretion of the court, if:

1. There are no unrepresented litigants; and

2. All unserved parties or parties not participating in the settlement will be dismissed.

Trials may be taken off calendar by telephone if all of the above conditions are met and the dismissal of the entire action will be filed according to the terms of the settlement not more than 365 days after the date the original complaint was filed. Otherwise, the parties must appear ex parte.
(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2003; Rev. & Renum. 1/1/2006; Rev. 1/1/2007)

Rule 2.1.15

Trial Readiness Conference

A trial readiness conference will generally be scheduled four weeks before the trial date. The parties must meet prior to the scheduled hearing and attempt to resolve the case, or, if that is not possible, limit issues for trial. If the case is not settled in its entirety, all parties must prepare and sign a joint trial readiness conference report in the format set forth in the joint trial readiness conference report available on the Civil forms area of the court's web site: (http://www.sdcourt.ca.gov/portal/page?_pageid=55,1058589,55_1058635&_dad=portal&_schema=PORTAL). Separate reports will not be accepted. Failure to disclose and identify all trial exhibits and witnesses intended to be called at trial and all other items required by the report may, in the court's discretion, result in exclusion or restriction of use at trial. The completed report must be presented to the judge at the scheduled conference. No part of the joint trial readiness conference report is to be received into evidence against any party in later proceedings.

Parties completely familiar with the case and possessing authority to enter into stipulations must be present at the scheduled hearing. Orders made will be binding on the parties and will not be subject to reconsideration due to an attorney's unfamiliarity with the case at the time of the hearing. The parties must be prepared to discuss any unusual evidentiary or legal issues anticipated during the trial and all remaining matters believed by any party to be appropriate for stipulation.

During the trial readiness conference, the court will review with counsel and sign or issue the advance trial review order setting forth specific trial preparation requirements of the trial department.
(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2009)

Rule 2.1.16

Jury Instructions

On the scheduled trial date, the parties must submit the full text of proposed jury instructions to the court. Jury instructions must be gender neutral and double spaced on plain paper. They may include instruction numbers but the mere submission of a list of instruction numbers is not acceptable. Authority may be included on copies of special instructions submitted to the court, but should not appear on the originals.
(Adopted 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.1.17

Juror Questionnaire

If juror questionnaires are proposed by counsel, the questionnaires must be accompanied by a Juror Questionnaire Cover Sheet which must be provided by the court.

(Adopted 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.1.18

Motions in Limine

Motions in limine must be limited in scope in accordance with *Clemens v. American Warranty Corp.* (1978) 193 Cal.App.3d 444, 451: e.g., evidentiary issues where attempts to "unring the bell" would be unduly prejudicial or futile. Unless otherwise directed by the court, counsel must file and serve motions in limine and opposition thereto five court days and two court days respectively prior to trial call. The following motions in limine will be deemed granted at the time of the trial readiness conference if applicable:

A. Motion excluding evidence of collateral source;

B. Motion excluding evidence of or mention of insurance coverage;

C. Motion excluding experts not designated pursuant to section 2034 of the Code of Civil Procedure; and

D. Motion excluding offers to settle and/or settlement discussions.

Written motions should not be submitted on the above issues.

(Adopted 1/1/2000; Renum. 7/1/2001, Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.1.19

Tentative Ruling Policy

Any party, or attorney for a party, who desires to have any demurrer, motion, or order to show cause set for hearing must contact the calendar clerk for the judge assigned to the case to reserve a hearing date.

Prior to the hearing, any civil department may issue a tentative ruling in a law and motion matter, in the sole discretion of the assigned judge. The tentative ruling will be issued in conformance with the tentative ruling procedures set forth in California Rules of Court, rule 3.1308. If a tentative ruling is issued the day before the date set for hearing, this court follows rule 3.1308 and no notice of intent to appear is required to appear for argument. The tentative ruling may direct the parties to appear for oral argument and may specify the issues on which the court wishes the parties to provide further argument. The tentative ruling may be obtained by calling the court tentative ruling number for the court branch the case is pending in, or by navigating to the court's website.

This rule does not preclude posting a tentative ruling the day of the hearing pursuant to rule 3.1308(b), nor does it mandate a tentative ruling be issued on all law and motion matters.

The tentative ruling numbers are as follows:

Central:	619-450-7381
North:	760-201-8400
East:	619-456-4492
South:	619-746-6275

(Rev. 7/1/2004; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009)

CHAPTER 2
SETTLEMENT CONFERENCE

Rule 2.2.1

Requesting a Settlement Conference

Settlement conferences may be requested if the parties certify that:

A. Settlement negotiations between the parties have been pursued, demands and offers have been tendered, and resolution has failed. If the court has ordered the parties to participate in a settlement conference, all parties must exchange demands and offers, and communicate responses thereto. This must be done in good faith and within a reasonable time to allow the opposing party to consider and respond to the offer or demand, but in no event will the first offer or demand be sent any later than five days before the settlement conference;

B. A judicially supervised settlement conference presents a substantial opportunity for settlement; and

C. The case has developed to a point where all parties are legally and factually prepared to present the issues for settlement consideration and further discovery for settlement purposes is not required.

When a matter has been accepted by the court for the purposes of conducting a settlement conference, all parties must comply with the provisions of rules 2.2.2, 2.2.3, and 2.2.4 unless otherwise ordered.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006)

Rule 2.2.2

Mandatory Appearance

The provisions of rules 2.2.2, 2.2.3, and 2.2.4 apply to all court-ordered settlement conferences unless otherwise ordered. All parties must be personally present. Claims adjusters for insured defendants, or right-of-way agents in condemnation proceedings, must be present with complete authority to settle the case.

Counsel appearing on behalf of their clients must be completely familiar with the case and possess complete authority to negotiate and settle. Counsel must have authority to make a specific demand and must be authorized to make an offer or counteroffer in a specific amount. If a participant is not fully prepared or fails to participate in good faith, the court may continue the hearing and/or impose sanctions against the offending party. If the hearing proceeds as scheduled, the orders made will not be subject to reconsideration due to counsel's unfamiliarity with the case at the time of the hearing.

For good cause shown, a party or agent may be excused from attendance at such conferences provided such party or agent will be available by telephone during the conference. Unless excused by the court, such requests must be submitted to the court in the form of a stipulation signed by all attorneys of record, or by ex parte appearance at least five court days prior to the settlement conference.

If the settlement conference is to be heard by a temporary judge, such stipulations and settlement conference briefs must be submitted to the court and ex parte requests must be made to the independent calendar department to which the case is assigned.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001, Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.2.3

Settlement Statements/Briefs

Written statements of the position of each party must be lodged with the settlement conference judge and served on other parties five court days prior to the settlement conference, unless otherwise ordered. If service is by mail, all papers must be mailed not less than ten days before the court date. Settlement conference statements do not become a part of the file and will be discarded. Confidential matters may be brought to the attention of the settlement judge during the settlement conference either orally or in writing.

Statements must not exceed five pages and must include the necessary information to concisely support issues of liability and damages, including a settlement demand and offer, as well as an itemization of special and general damages, if applicable. Mandatory settlement conferences are governed by the California Rules of Court.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001, Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.2.4

Notifications of Settlement or Continuances

A. Settlement. In accordance with the California Rules of Court, if a case is settled, the plaintiff must immediately give the court written notice. The plaintiff must also immediately notify the court by phone or in person if a hearing, conference, or trial date is imminent. The only time a hearing set by the court may be taken off calendar is when the plaintiff advises the court that the case has been settled. In that event, a show cause hearing regarding dismissal will be conducted in 45 days. The show cause hearing will be taken off calendar if a dismissal of all complaints and cross-complaints, or a judgment as to all complaints and cross-complaints, is filed with the court no later than five court days prior to the hearing. If such documentation has not been received by the date set for the show cause hearing, the court will immediately order appropriate sanctions and/or dismiss the entire action.

Failure to advise the court at least five court days before the settlement conference that it will not proceed as scheduled, for any reason other than the settlement of the case in its entirety within the five court day period, may be deemed by the court to be a violation of an order of the court, punishable by monetary sanctions payable to the county under section 177.5 of the Code of Civil Procedure, as well as any other sanction provided by law. In addition to monetary sanctions, any party or attorney who fails to attend a settlement conference risks having their complaint dismissed or their answer stricken and default entered.

B. Continuances. Any party requesting a continuance must appear ex parte and show good cause why the settlement conference should be continued. At the ex parte hearing, a stipulation may be presented to the court, signed by all parties, accompanied by a declaration showing good cause.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Rev. 1/1/2005; Renum. 1/1/2006)

CHAPTER 3
ALTERNATIVE DISPUTE RESOLUTION (ADR)

ADR Policy Statement. It is the policy of the San Diego Superior Court to strongly support the use of Alternative Dispute Resolution ("ADR") in all general civil cases. The court has long recognized the value of early case management intervention and the use of alternative dispute resolution options for amenable and eligible cases. The use of ADR will be discussed at all Case Management Conferences. It is the court's expectation that litigants will utilize some form of ADR – i.e., the court's mediation and arbitration programs or other available private ADR options as a mechanism for case settlement before trial.

Rule 2.3.1

Judicial Arbitration

A. Submission to Arbitration. The court elects to come within the provisions of section 1141.11 et seq. of the Code of Civil Procedure regarding judicial arbitration of all at-issue civil actions which are not exempt. All actions submitted to arbitration pursuant to these sections will be subject to the provisions contained therein, as well as rules of procedure set forth in the California Rules of Court, rule 3.810 et seq., and in these rules.

B. Policy. It is the policy of the court to discourage any unnecessary delay in civil actions. Continuances are discouraged and timely resolution of all actions, including matters submitted to any form of ADR, is encouraged.

After a case is "at issue," the court may order it to judicial arbitration. Counsel must be prepared to discuss whether the arbitration will be binding or non-binding, and to select an arbitrator. Dismissal of all unserved, non-appearing, and fictitiously named parties will also be addressed. The court will propose dates to exchange information concerning expert witnesses and their discoverable reports and writings in accordance with rule 2.3.3. Although the demand requirement under section 2034 of the Code of Civil Procedure may be dispensed with at this hearing, all other provisions of section 2034 and rule 2.3.3 will be strictly enforced.

C. Exemption from Arbitration. Matters which are exempt from judicial arbitration are set forth in the California Rules of Court, rule 3.811, and section 1141.11 of the Code of Civil Procedure.

Unless otherwise ordered by the court, the following categories of actions are also exempt from arbitration, as provided by the California Rules of Court, rule 3.811, and will be set directly for trial:

1. Civil actions in which no jury trial is demanded and the estimated time for trial is one day or less;

2. Civil actions in which any party is not represented by counsel; and

3. Collection actions (i.e., actions primarily seeking money on an assigned claim).

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 7/1/2003; Rev. 1/1/2004; Renum. 1/1/2006; Rev. 1/1/2008)

Rule 2.3.2

Arbitration Procedures

Arbitration rules of procedure are set forth in the California Rules of Court, rule 3.810 et seq., and in these rules.

A. Appointment of Arbitrator. At the case management conference, the parties must stipulate to the appointment of any arbitrator on the list of superior court arbitrators. If the parties do not stipulate, the judge who ordered the case to judicial arbitration will appoint the arbitrator. The appointment of an arbitrator will be effective immediately and will extend for 90 days. Before any person may be appointed as an arbitrator, that person must provide a statement on a form provided by the court that they have read and will comply with the provisions of rule 2.3.1, subdivision A.

B. Continuances. The court discourages continuances. Rules regarding continuances of arbitration hearings are set forth in the California Rules of Court. Rules regarding the completion of cases within 90 days and the reappointment of an arbitrator for good cause are set forth in the California Rules of Court. If a continuance is denied or 90 days have elapsed from the time of appointment, it is mandatory that all parties appear before the judge who ordered the case to judicial arbitration. If it appears to the court that a request for continuance is not made with good cause, the court may impose monetary sanctions upon the requesting party.

C. Conduct of the Arbitration Hearing. The arbitration hearing must be conducted as follows:

1. The arbitrator must administer the oath;

2. Counsel and the arbitrator are to be formally addressed as Mr., Mrs., Miss, or Ms. during the hearing;

3. At the time of the arbitration hearing, or at any other time designated by the arbitrator, each attorney must submit to the arbitrator (not the court) the following, unless excused from doing so by the arbitrator:

a. Copies of any offered pleading, arranged chronologically and appropriately highlighted;

b. Copies of any offered deposition transcript or record appropriately highlighted;

c. An arbitration brief consisting of:

(1) A concise statement of facts;

(2) Legal and factual contentions of each party;

(3) A statement of damages sought to be awarded including the amount claimed, medical expenses, and property damage;

(4) Copies of medical reports and bills;

(5) Copies of appraisals/repair estimates; and

(6) Copies of repair bills.

d. If the arbitration award is not filed within 10 days after the arbitration hearing, or an extension of 20 days is not granted pursuant to the California Rules of Court, rule 3.825(b), either party may notify the arbitration department. The arbitrator will then be requested to submit the award or appear before the judge who ordered the case to judicial arbitration to show cause why rule 3.825(b) of the California Rules of Court was not satisfied.

(Adopted 1/1/1998; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2008)

Rule 2.3.3

Exchange of Experts After Arbitration

Failure to comply with this rule may result in a party's inability to call one or more expert witnesses at trial, or subject the noncomplying party to monetary sanctions.

Pursuant to the stipulation of the parties at the case management conference, exchange of experts after arbitration must be made according to the following schedule:

A. Initial Exchange. Within 15 days of the date of any method of service of a trial de novo request, pursuant to section 2034 of the Code of Civil Procedure each party must personally serve on all other parties a designation of expert witnesses who will be relied upon at the trial de novo, along with all discoverable reports and writings, if any, of those experts. However, service by mail of the above designation is permitted if made within 10 days of service of the trial de novo request. Parties will be permitted to designate only those experts they in fact intend to call at trial. It is the policy of the courts that parties are limited to one expert per side per field of expertise, pursuant to section 723 of the Evidence Code and rule 2.1.11, absent a court order to the contrary.

B. Supplemental Exchange. Any supplemental designation of experts must be personally served within 5 days of any personal service of the opponent's initial list, or within 10 days of any mail service of the opponent's initial list.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.3.4

Request for Trial De Novo

A request for trial de novo must be filed in the civil business office pursuant to section 1141.20 of the Code of Civil Procedure and the case will be set for trial.

Withdrawal of Trial de Novo Requests. If a party has requested trial de novo, the request may be withdrawn by a written stipulation, signed by counsel for all parties appearing in the case, that the award may be ordered as a judgment.

(Adopted 1/1/1998; Rev. 1/1/2001; Renum. 7/1/2001; Rev. 1/1/2003; Renum. 1/1/2006)

Rule 2.3.5

Prohibition Against Post Arbitration Discovery

Stipulations for post arbitration discovery pursuant to section 1141.24 of the Code of Civil Procedure will be recognized by the court, provided that no such stipulation modifies, extends, or avoids any procedure or deadline established by these rules or order of the court. Expert discovery is not within the prohibition of post arbitration discovery codified under section 1141.24 of the Code of Civil Procedure, but is subject to the applicable rules and orders of the court.

(Adopted 1/1/1998; Renum. 7/1/2001; Renum. 1/1/2006)

Rule 2.3.6

Monetary Sanctions

In addition to the provisions of the California Rules of Court, rule 3.829, regarding notification of settlement, failure of the parties to notify the arbitrator and the court of a continuance or their inability to proceed at least two court days prior to the time set for the arbitration hearing may, upon written notice given by the court, result in an order to show cause why the parties should not pay $150 or other sanctions.

(Adopted 1/1/1998; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2008)

Rule 2.3.7

Civil Mediation Program

All general civil independent calendar cases, including construction defect, complex and eminent domain cases are eligible to participate in the Civil Mediation Program.

A. Stipulation to Mediation. At any time prior to the Case Management Conference, parties may stipulate to mediation. The stipulation must include the name, address and phone number of the mediator and one alternate mediator. If the stipulation is granted, Appointment of Mediator notices will be issued.

B. **Case Management Conference**. If parties do not stipulate to mediation prior to the Case Management Conference, the judge will encourage all parties to consider mediation or other ADR options. If the court determines a mediator would assist in the resolution of a case, parties will be asked to stipulate to mediation which will be reflected on the Case Management Conference's Minute Order.

C. Panel of Mediators. Parties may select any mediator to mediate their matter. The court maintains a panel of court-approved mediators who have satisfied training and experience requirements established by the court and who must adhere to minimum standards of practice pursuant to California Rules of Court, rule 3.850 et seq., and other program policies and procedures.

D. Payment of Mediators. Mediators must be compensated directly by the parties. The fees and expenses of mediators must be shared equally between the parties, unless otherwise agreed.

Mediators on the court's approved panel have agreed to charge $150.00 per hour for each of the first two hours and their regular hourly rate thereafter for court-referred mediation.

Mediators on the court's approved panel may not charge parties for preparation or administrative time, but may require that fees be deposited in advance of the mediation session and may have cancellation fees and policies.

Parties may also utilize the services of mediators who are not on the court's approved panel. They will be charged the mediator's regular hourly rate and any other fees in accordance with the mediator's policies.

E. Selection of Mediators. Parties are encouraged to make their selection at or before the time of the Case Management Conference. If they are unable to make a selection, the case will be referred back to the court for the setting of a future hearing. If parties agree on a mediator and alternate and notify the court before the hearing, the hearing will be vacated.

F. Timing of Mediation and Trial Dates. Cases will be referred to mediation for up to 120 days. At the time of the Case Management Conference, tentative trial dates will also be given. If the mediation has ended in non-agreement, the court will confirm the trial dates given. If parties request an extension of time for mediation, they must file a stipulation indicating the date of the future mediation session. Alternatively, they may contact the mediator to request an extension in 30-day increments which will be subject to approval by the court. In all cases, a Reappointment of Mediator notice will be generated if the extension is approved.

G. Attendance at Mediation. All parties, their counsel and persons with full authority to settle the case must personally attend the mediation, unless excused by the court for good cause. If any consent to settle is required for any reason, the party with the consent authority must be personally present at the mediation.

(Adopted 2/28/2000; Rev. 1/1/2001; Renum. 7/1/2001; Rev. 1/1/2003; Rev. 7/1/2003; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009)

CHAPTER 4
SPECIAL CASE CATEGORIES

Rule 2.4.1

Judgment Debtor Examination Proceedings

A. Setting Hearings. Judgment debtor examination dates are obtained by submitting the appropriate fees, an original and two copies of the order for appearance of judgment debtor, and a stamped, self-addressed envelope or messenger service return slip to the appropriate civil business office. Conformed copies with the appearance date, time, and place will be returned to the judgment creditor for service.

B. Proof of Service. Proof of service must be filed no later than five days before the date of the hearing. However, if the person ordered to appear does appear and is ready to proceed, the examination may be conducted, with or without proof of service having been timely filed, at the discretion of the court.

C. Appearance at Examination. Upon the call of the calendar, if the parties appear the examination must proceed at once, unless a continuance is ordered by the court. If the person ordered to appear does appear and the moving party fails to appear, the proceedings may, at the discretion of the court, be continued to another day or be dismissed without cost and with such additional orders as are appropriate. Appropriate orders may include an order that no future order will issue as to the person who did appear except upon a showing of new facts and a satisfactory explanation being made to the court for the moving party's failure to appear. If such future order is granted, it will be made on such terms and conditions as the court deems just and appropriate.

If the moving party does not appear and the court deems it appropriate to continue the examination to a future date, and on that day the moving party does not appear, the proceedings must be dismissed without costs being awarded to the party who secured the order.

D. Nonappearance of Party to be Examined. If the party to be examined fails to appear at the time and place set for examination, a bench warrant may issue requiring attendance forthwith, provided the moving party complies with subdivision "E" of this rule within 30 days after the examination date.

A warrant will not be issued for the arrest of a person who failed to appear in court as directed in such order if the order with the return of service thereon has not been filed with the clerk of the court within the time specified herein, unless so ordered.

E. Bench Warrants of Attachment. If a judgment debtor fails to appear for hearing as ordered, the judgment creditor requests a bench warrant of attachment, and the court orders a bench warrant of attachment, the judgment creditor must file with the civil business office the following items before the bench warrant of attachment will issue:

1. Sheriff's instructions, fully completed, stating the location where the defendant may be served (forms available in sheriff's office, original only required);

2. Check made payable to the "Sheriff of San Diego" for service fees; and

3. A bench warrant of attachment form.

The above documents must be filed within 30 days of the order directing or granting the issuance of the bench warrant of attachment. If the documents are not filed within 30 days following the order for issuance of the bench warrant of attachment, the moving party must apply to the court for an order for appearance of judgment debtor.

F. Continuances. One or more continuances of a judgment debtor examination may be allowed upon stipulation of all parties or their attorneys joined in by the person or entity ordered to appear and approved by the court, or upon good cause shown.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Renum. 1/1/2006)

Rule 2.4.2

Unlawful Detainer Proceedings

A. Order to Show Cause Regarding Dismissal. Consistent with the policy set forth under rule 2.1.1, a show cause hearing regarding dismissal will be set when the complaint is filed and will be held approximately 45 days after the filing of the complaint unless:

1. The case has been set for trial;

2. The case has been designated as a general civil matter because possession is no longer in issue (Civ. Code, § 1952.3) and the case is not entitled to precedence (Code Civ. Proc., § 1179a);

3. A disposition has been entered (a dismissal, judgment, notice of settlement, or transfer terminates or disposes of the case as to all defendants named in the action); or

4. A conditional settlement has been filed.

There will be no case management conferences in unlawful detainer cases, unless re-designated a general civil matter or unless specifically set by order of the court

B. Trial Setting. In unlimited unlawful detainer cases, it is the responsibility of the parties to notify the court that they are entitled to an expedited trial. In limited unlawful detainer cases, there is a mandatory Judicial Council form that must be filled out and submitted to request that the case be set for trial. In addition to filling out the front of the mandatory form, the proof of service on the reverse side of the form must be filled out and submitted after the opposing party has been served with the request or counter-request to set the case for trial. A counter-request must be filed within 5 days of the filing of the trial request. The mandatory form to be used for a request or counter-request to set a case for trial is Judicial Council form number UD-150, and may be obtained by going to the Judicial Council website at http://www.courtinfo.ca.gov

C. Judgment for Money Damages after Judgment for Possession of the Premises. When the plaintiff obtains a default judgment for possession of the premises, the case may be calendared for further hearing. In the alternative, a plaintiff may file an application along with the necessary declarations for a default money judgment including attorney fees and costs or may file a dismissal without prejudice as to the money damages**.** After restitution of possession of the premises to plaintiff, plaintiff's failure to seek a money judgment or to file a dismissal may result in the court calendaring a hearing for the plaintiff to show cause why the case should not be dismissed.

D. Redesignation of Case when Possession is No Longer in Issue (Civ. Code, § 1952.3). The plaintiff must immediately notify the court when possession is no longer in issue and request the matter be redesignated as an unlimited or limited civil matter. The case will be monitored as follows:

1. If the defendant has not filed an answer, the case will be monitored for timely entry of default; or

2. If the defendant has filed an answer, the case will be set for a case management conference.

(Adopted 1/1/1998; Rev. 1/1/2001; Renum. 7/1/2001; Rev. 1/1/2003; Rev. 1/1/2004; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009)

Rule 2.4.3

Uninsured/Underinsured Motorist Actions

If a complaint includes an uninsured/underinsured motorist claim as defined under section 68609.5 of the Government Code and section 11580.2 of the Insurance Code, plaintiff must file a declaration stating the case is an uninsured/underinsured motorist case, the name of insurance carrier, and amount of coverage. The court will suspend the time requirements and the action will be stayed for a period of 180 days. Any party who claims to be exempt from the stay and who desires to further prosecute the action must object by noticed motion in the stayed action. Upon the expiration of the 180-day stay period, the action will be dismissed unless, upon noticed motion, good cause is shown to the contrary. If such motion is granted, the stay may be extended, but such an extension will not exceed 180 days.

In addition to the above, if a complaint includes an uninsured/underinsured motorist claim as defined under section 68609.5 of the Government Code and section 11580.2 of the Insurance Code, plaintiff must file a Certificate of Progress so advising the court within 60 calendar days of the filing of the complaint. The certificate must indicate whether a stay of the action or a portion of the action is requested in accordance with rule 2.1.13, and/or whether the case will proceed against all other appearing defendants.

(Adopted 1/1/1998; Rev. 1/1/1999; Rev. 1/1/2000; Rev. 1/1/2001; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.4.4

Small Claims

To facilitate compliance with the Standards of Judicial Administration relating to case disposition time standards and delay reduction, a notice will be given to the plaintiff by the clerk at the time of filing a small claims case advising the following: 1) Failure to appear at the scheduled hearing may result in the case being dismissed; 2) If the defendant(s) is (are) not served by the date of trial and the plaintiff elects not to reset the matter, the case will be dismissed without prejudice when the case is called. Requests for resetting may be made at the time of trial or before. If the case is dismissed on the date of trial for lack of service and resetting, and the plaintiff wishes to further litigate the matter, the case must be refiled and a new filing fee paid.

A. Filings

East County Division: All filings pertaining to small claims actions must be filed at 250 E. Main Street, El Cajon, CA 92020, or in the Ramona Branch, 1428 Montecito Road, Ramona, CA 92065.

North County Division: All filings pertaining to small claims actions must be filed at the North County Regional Center, 325 S. Melrose Drive, Suite 390, Vista, CA 92083.

Central Division: All filings pertaining to small claims actions must be filed at the Kearny Mesa Facility, 8950 Clairemont Mesa Boulevard, San Diego, CA 92123. Small claims trials are heard at this facility.

South County Division: All filings pertaining to small claims actions must be filed at 500 Third Avenue, Chula Vista, CA 91910.

B. Reassignment. If the parties do not stipulate to one commissioner or temporary judge, the matter will be set for hearing before another commissioner, temporary judge, or judge. If an alternate temporary judge, commissioner, or judge is unavailable in the small claims department at any given session, the matter may be continued by the clerk.

C. Proof of Service. Proof of service must be filed not later than five days before the date set for hearing. Failure to timely file proof of service may cause the court to remove the hearing from the calendar, or dismiss the case without prejudice.

D. Appeal Procedures. In addition to the requirements of the Code of Civil Procedure and the California Rules of Court, the following procedure applies in small claims appeals:

Parties are not required to file trial briefs in small claims appeals. However, if a party feels a brief is necessary, it must be filed at least five court days prior to the hearing and must not exceed five pages in length.

(Adopted 1/1/1998; Rev. 1/1/1999; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 7/1/2003; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.4.5

Eminent Domain

A. Case Management Conference. Absent the granting of a motion to treat an eminent domain proceeding as a complex case or a motion to enlarge time, it will be set for a case management conference approximately 180 days after the filing of the complaint. By the date of this case management conference, all parties must either have

appeared, been defaulted, disclaimed any interest in the subject property, or been dismissed, and the case must be ready to be placed on the civil active list. A Case Management Statement must be completed by all parties and filed with the court at the time of this case management conference. The parties may stipulate to ADR or a temporary judge at that time. A trial date will be set not sooner than 120 days after the case is "at issue."

B. Settlement Conference. A settlement conference on the issue of compensation will be set 15 days before the trial date if the parties have complied with the settlement conference rules. The plaintiff must attend the conference with its negotiating agent, and all defendants who claim compensation must be present except lienholders, if any.

C. Trial Readiness Conference. A trial readiness conference on the issue of compensation will be set 10 days before the trial date. The plaintiff and other parties presenting valuation testimony at the trial must meet prior to the scheduled conference and complete, sign, and file a joint trial readiness conference statement in the form provided by the court. The completed statement must be presented to the judge at the scheduled conference.
(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.4.6

Minors/Incompetents/Conservatees

A. Guardians ad Litem. As provided in the Code of Civil Procedure, a guardian ad litem must be appointed for a minor, incompetent person, or a person for whom a conservator has been appointed. Due to potential conflicts of interest, parents asserting individual claims or defenses may not serve as guardians ad litem for their minor children, absent a court order to the contrary. Petitions for appointment of a guardian ad litem must be filed at the same time as the underlying complaint is filed.

B. Petitions to Compromise the Claim of a Minor. A petition to compromise claims on behalf of minors may be filed in a limited civil case only if an action is already pending in that case. Otherwise, it must be filed as an unlimited civil case. The petition must be filed and set for hearing in the department designated by the presiding or supervising department unless the case has been assigned to a judge or independent calendar department, in which case the petition must be filed and heard in that department. The person compromising the claim on behalf of the minor and the minor must be in attendance at the hearing of the petition, unless the court orders otherwise.

At the time of the hearing, the court will determine the amount of costs, expenses, and attorney's fees to be allowed from the proceeds of the settlement. Absent extraordinary circumstances, attorney's fees will not exceed 25% of the gross proceeds of the settlement.

The funds must be disbursed in accordance with the order approving the settlement. It is the duty of the attorney to ensure that the minor's funds are deposited in accordance with the court order referenced above. Attorney's fees are not due or payable unless and until the money is deposited in the blocked account and a receipt executed by the depository is returned to the court.

C. Trusts. In all cases where settlement of any civil proceeding contemplates the creation of a trust with proceeds from a settlement, including trusts for the benefit of minors and incompetent parties or special needs trusts, as authorized by Probate Code section 3600 et seq., the following provisions apply:

1. After the approval of the settlement by the judge in the civil proceeding and the hearing thereon as provided in Code of Civil Procedure section 664.6, if necessary, but prior to the payment or transmittal of the proceeds of the settlement agreement to plaintiff's representatives, counsel for plaintiff must submit a copy of the proposed trust agreement to the trial court judge before whom the settlement agreement was presented and approved. The trial judge will transmit the proposed trust agreement to the probate court for review and approval.

2. Following review of the trust agreement, the probate judge will advise the trial court judge in writing, specifying the required changes, if any, in the proposed trust agreement, together with the amount of trustee's bond to be posted, if any, and whether or not the trust should thereafter be subject to supervision by the probate court as provided in Probate Code section 17200 et seq. When the required changes have been made to the proposed trust agreement, the trial judge will sign an appropriate order directing the trustee to post the indicated bond before authorizing the payment or transmittal of the settlement proceeds to the trustee to fund the trust, and order the trustee, where necessary, to file a petition in the probate court as described in subdivision 3 below. The trial judge will forward a file stamped copy of this order and the bond to the probate court.

3. If the order of the trial court provides that the trust will be subject to the supervision of the probate court, the trustee must file a petition in the probate court subjecting the trust to the jurisdiction of the probate court as authorized by Probate Code section 17000, entitled "Petition for Review of Compliance with Order pursuant to Probate Code section 3602 or 3604," and cause that petition to be set for noticed hearing. Such petition must be the first petition in a new probate proceeding and a full "first petition" filing fee will be paid.
(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Rev. 1/1/2004; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.4.7

"Other" Civil Actions

Civil actions classified as "other," including but not limited to petitions for extraordinary relief and small claims appeals, will be noticed for dismissal 180 days after the filing of the first document conferring court jurisdiction, unless the parties appear ex parte in the appropriate department and obtain an extension of time. The court, on its own motion, may at any time reclassify such cases as "unlimited civil." Cases designated as "eminent domain" must follow the procedures under rule 2.4.5.

(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2004; Renum. 1/1/2006)

Rule 2.4.8

Extraordinary Writs

A. In seeking mandamus or prohibition relief, it is not necessary to obtain an alternative writ (Code Civ. Proc., § 1088). The noticed motion procedure should be used whenever possible.

B. If an alternative writ is sought in the first instance, the petition must be filed in the civil business office and the petitioner must appear ex parte to seek issuance of an order to show cause.

C. Petitions for extraordinary writs in limited civil, misdemeanor and infraction cases that name the Superior Court as the respondent are governed by Division VII rules (Appellate).

D. Petitions for extraordinary writs arising out of all other criminal cases are governed by Division III rules (Criminal).

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006)

Rule 2.4.9

EADACPA Proceedings

A. When a civil action has been filed which cites the "Elder Abuse and Dependent Adult Civil Protection Act" (EADACPA), pursuant to Welfare & Institution Code section 15600 et seq., that action will be transferred to the Probate Court for litigation if the following apply:

1. A conservator of the person and/or estate has been appointed for the plaintiff and has qualified prior to the initiation of the action for abuse. (Welf. & Inst. Code, § 15657.3, subd. (a).)

2. No good cause is shown to retain the action in the Civil Court. (Welf. & Inst. Code, § 15657.3, subd. (b).) The action will remain as a civil case file and civil Rules of Court and procedures will apply.

B. Where a conservator of the person and/or estate has been appointed, any EADACPA action can also be filed by petition or complaint in the Probate Court and will be part of the conservatorship case file. It will be processed like a civil action, with the requirements of a summons and responsive pleadings.

1. The title of the case must be a dual title "In the Matter of the Conservatorship of (name)" and below that title the civil title, "(Name of conservatee) Through (name of conservator), Conservator of (Person or Estate) v. (name(s)) (of) Defendant(s)".

2. Although a civil summons will be issued, the petition or complaint will be set for hearing at least 40 days away, on a regular probate calendar, and that first hearing will be handled as a review hearing.

a. A Certificate of Service of summons or Certificate of Progress showing inability to serve must be filed prior to the hearing.

b. Proof of service of probate notices pursuant to applicable statutes must be filed prior to the review hearing.

3. The petition or complaint will thereafter be handled pursuant to probate "fast track" rules for contested matters pursuant to Probate Rules, Division IV, Chapter 22.

4. If a jury trial is demanded, or if the time estimate exceeds what Probate Court has the ability to hear, and the matter does not settle, at the Joint Disposition conference, the litigants will be instructed to contact the independent calendar clerk for assignment to a civil court.

5. If the conservatee dies while an action is pending in the Probate Court, the Probate Court will retain jurisdiction of the action in the conservatorship case file. (Prob. Code, § 2630.)

a. A personal representative or processor in interest to the conservatee must substitute in as plaintiff. (Welf. & Inst. Code, § 15657.3.)

b. A first appearance fee for the substituted party will be required.

(Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2008)

Rule 2.4.10

Collection Actions

Case management in Collection Actions is handled in accordance with the California Rules of Court, rules 3.740 and 3.741.

(Adopted 1/1/2009)

CHAPTER 5
MISCELLANEOUS PROVISIONS

Rule 2.5.1

Appointment of Counsel Under the Servicemembers Civil Relief Act

If the plaintiff or defendant in an action is in the military service, the Servicemembers Civil Relief Act ("the Act") may apply. (50 U.S.C. Appen. § 501 et seq.)

A. If the defendant servicemember has not made an appearance:

1. The court may not enter a default judgment or an order of default on the merits unless the court appoints an attorney for the defendant. Default means any order, ruling or decree which is adverse to the servicemember's interest. Actions taken by the appointed attorney do not bind the servicemember or waive any defenses (including lack of jurisdiction) unless the servicemember has authorized action.

2. The court must grant a 90-day or longer initial stay if there may be a defense to the proceeding which the servicemember cannot present without being present, or if after due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists.

3. After the 90-day stay, the court must appoint an attorney to represent the servicemember in the action or proceeding if it refuses to grant an additional stay.

4. If the court does enter a default, plaintiff may be required to file a bond to indemnify the responding servicemember if the order is later set aside.

5. If the court enters a default judgment during a period of military service (or within 60 days after the end of service), the court must reopen the judgment to allow the servicemember to defend if:

a. The service member was materially affected due to military service in asserting a defense, and

b. The service member has a meritorious or legal defense to the action or some part of it, so long as the application is filed within 90 days after the end of military service.

B. If the plaintiff or defendant servicemember has received notice of the proceeding:

1. The court must grant a minimum 90-day stay of the proceedings if the servicemember communicates that military duty requirements materially affect the servicemember's ability to appear, stating a date when the servicemember will be available, and if the servicemember's commanding officer communicates that the servicemember's current military duties prevent an appearance and leave is not authorized at the time of the hearing.

2. The service member may apply for an additional stay in the same manner as the original request. If the court refuses to grant the additional stay, the court must appoint counsel to represent the servicemember in the proceeding.

C. Miscellaneous.

1. Appointments of counsel under the Act are pro bono.

2. Any individual holding a power of attorney from the servicemember may appear in court on his or her behalf to request a stay or additional stay.

3. A request for a stay does not constitute a general appearance for jurisdictional purposes or a waiver of substantive or procedural defenses.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008; Rev. 1/1/2009)

Rule 2.5.2

Public Inspection of Files

A. File Review in the Civil Business Office. Civil files may be reviewed in the civil business office of each division in accordance with the California Rules of Court and the following:

1. Any person requesting to view a file may be required to submit a valid California driver's license or other photo identification card;

2. Cases must be requested by case number;

3. If requested in nonsequential order, a maximum of 10 cases per day will be pulled by the clerk;

4. If requested in sequential order, a maximum of 50 cases per day will be pulled by the clerk;

5. Unlawful detainer case files may be requested by case number no sooner than 60 days following the date the complaint is filed pursuant to section 1161.2 of the Code of Civil Procedure; and

6. No random searches will be accommodated.

B. Access to the Civil Business Office for File Review. Any person who desires access to the secured area of the civil business office to review case files must comply with the following:

1. Submit an Application for Access into the Clerk's Office to Research Court Records;

2. Submit a valid California driver's license or photo identification card and, if applicable, a copy of a valid business license;

3. Pass a background check.

Access will be denied if the applicant has any outstanding warrants, is a party to a pending civil or small claims action, has an open misdemeanor or felony case, is currently on probation for a misdemeanor or felony conviction, or upon order of the court.

Notification of approval or denial of access will be mailed to the applicant at the address shown in the application within 30 days. Applicants who are denied access will be permitted to inspect cases in the same manner as set forth under subdivision "A" of this rule.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2004; Renum. 1/1/2006)

Rule 2.5.3

Fax Filings

A. Agency Fax Filings. The court will accept for filing all documents submitted by fax filing agencies, except those specified in the California Rules of Court.

B. Direct Fax Filings - Limited Civil Cases. Any document not required to be accompanied by a fee may be filed directly by fax. Direct fax filing numbers may be obtained by contacting the appropriate business office.

The business office will not provide conformed copies unless a request is submitted to the court with a self-addressed, stamped envelope, and $.50 per page of the faxed document.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.5.4

Procedure Upon Death of Plaintiff

Within 10 calendar days of receiving notice of the death of a plaintiff, counsel for the plaintiff must file with the court and serve upon all other parties in the action, a Notice of Death of the Plaintiff.

Upon receipt of a Notice of Death of the Plaintiff, the court will suspend future consideration of the case for 90 calendar days. The case will be placed on a dismissal calendar to be heard 90 days after the notice is filed unless:

A. The original case is consolidated with a new wrongful death action;,

B. Good cause is shown upon written noticed motion to extend the time for dismissal; or

C. Plaintiff's counsel moves to have the original action restored to active status.

(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.5.5

Receivers

The court may appoint a receiver pursuant to statute or in conformance with equity practice. Appointment of a receiver may be made either by order after a show cause hearing, by order after a noticed motion for appointment of a receiver, or by ex parte order for appointment of a receiver.

Ex parte appointment of a receiver is a drastic remedy used only with extreme caution in cases of great emergency when it is shown that the party seeking appointment of a receiver will suffer irreparable harm before a noticed hearing can be held and that no less drastic remedy, such as a temporary restraining order, will prevent the threatened harm. Appointment of a receiver ex parte is contingent upon the filing of an applicant's bond (Code Civ. Proc., § 566) and a receiver's bond (Code Civ. Proc., § 567). The receiver's bond will be fixed in an amount sufficient to cover the value of transferable personal property and cash which the receiver may possess at any time during the expected period of the receivership. Confirmation of the ex parte appointment of a receiver must be done in conformance with the provisions of the California Rules of Court.

The proposed order appointing a receiver must set forth the powers of the receiver and shall designate as precisely as possible what real and personal property will be subject to the receivership estate. The powers of the receiver are limited to those designated by statute and set out in the appointing order. If there is any doubt as to the receiver's authority to take certain action, he or she should petition the court for instructions. The proposed order will also specify the rate of compensation of the receiver.

Employment of counsel by the receiver requires the approval of the court. In this regard, the application must comply with the provisions of the California Rules of Court, rule 3.1180. In addition, the application and the proposed order must set forth the attorney's hourly rate and a good faith estimate of the number of hours the attorney will expend on behalf of the receivership estate.

If the receiver intends to employ a property management company, the proposed order must specify its rate of compensation. If the proposed property management company is affiliated with the receiver, full disclosure of the affiliation must be made to the parties and the court.

Any money collected by the receiver and not expended pursuant to the receiver's duties must be held in the receivership estate until court approval of the receiver's final report and discharge of the receiver, except as otherwise ordered by the court.

The receiver is an agent of the court, not of any party to the litigation. The receiver is neutral, acts for the benefit of all who may have an interest in the receivership property, and holds assets for the court, not the plaintiff.

Accountings filed in receivership proceedings must set forth the beginning and ending dates of the accounting period and contain a summary of income, expenses, and capital outlays on a month-by-month basis. Receiver's fees and administrative expenses, including fees and costs of property managers, accountants and/or attorneys previously authorized by the court must be included in the summary, but separately stated. The summary must be supported by appropriate itemized schedules and evidentiary foundation.

This rule is not an exhaustive treatment of receivership law and procedure. For applicable law, also see sections 564-570 of the Code of Civil Procedure and the California Rules of Court, rules 3.1175-3.1184.
(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008)

Rule 2.5.6

Confidentiality Agreements, Protective Orders, Sealed Documents

It is the policy of the court that confidentiality agreements and protective orders are disfavored and should be recognized and approved by the court only when there is a genuine trade secret or privilege to be protected.

A. Requests to approve a confidentiality agreement that involves documents submitted to or filed with the court, such requests must be made pursuant to rules 2.550–2.585 of the California Rules of Court.

B. To the extent any request to seal court records falls outside the scope of rules 2.550–2.585 of the California Rules of Court and is not covered by a specific statute, rules 2.550–2.585 must be followed as closely as is practicable.
(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. & Renum. 1/1/2006)

Rule 2.5.7

Daily Transcripts of Proceedings

A party in a civil action may request a daily transcript of the proceedings. The court may grant the request if such will not disrupt the regular assignment of court reporters. If the request is granted, the requesting party must deposit with the clerk of the court each day a sum equal to the daily cost of the salary and benefits for court reporters in this county under existing law, to compensate the requisite additional reporter. Current information regarding such cost will be available in the office of the executive officer or assistant executive officer of each division.
(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.5.8

Depositions

No deposition may be noticed for taking before the court, or in any room or quarters under the control of the court, without the express approval in writing of the presiding judge.

Any deposition transcript returned to the court may be opened by the clerk at the request of either party, and the clerk will note thereon at whose request it was opened, and file the deposition transcript on the day it was received by the clerk.
(Adopted 1/1/1998; Renum. 7/1/2001; Renum. 1/1/2006)

Rule 2.5.9

Bankruptcy

All parties to an action must promptly make it known in writing to the court if during the litigation they become debtors in bankruptcy or if, to their knowledge, other parties to the litigation become debtors in bankruptcy.
(Adopted 1/1/1998; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.5.10

Telephonic Appearances

In accordance with the provisions of California Rules of Court, rule 3.670(l), the court designates CourtCall, LLC, as the provider that must be used for telephonic court appearances. A party that intends to appear telephonically for a hearing listed in the rule must provide notice as specified in California Rules of Court, rule 3.670(g). The party must also arrange the appearance with CourtCall, including following any notice requirements and payment of fees as required by CourtCall. Information on arranging an appearance and payment of fees may be obtained directly from CourtCall at (888) 882-6878.

The court may deny a request to appear telephonically and require the parties to appear in person pursuant to California Rules of Court, rule 3.670(h).
(Adopted 1/1/1998; Rev. 1/1/1999; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2003; Renum. 1/1/2006; Rev. 1/1/2009)

Rule 2.5.11

Default Attorney Fee Schedule

Whenever the obligation sued upon provides for the recovery of a reasonable attorney fee, the fee in each default case may be fixed pursuant to the following schedule:

PRINCIPAL AMOUNT	FEES ALLOWED
$-0- to $300	$ 100
301 to 400	125
401 to 500	150
501 to 700	175
701 to 900	200
901 to 1,000	250
1,001 to 1,500	300
1,501 to 2,000	375
2,001 to 2,500	450
2,501 to 3,000	525
3,001 to 3,500	600
3,501 to 4,000	675
4,001 to 4,500	750
4,501 to 5,000	825
5,001 to 6,000	900
6,001 to 7,000	1,000
7,001 to 8,000	1,100
8,001 to 9,000	1,200
9,001 to 10,000	1,300
10,001 to 12,500	1,400
12,501 to 15,000	1,500
15,001 to 17,500	1,600
17,501 to 20,000	1,700
20,001 to 22,500	1,800
22,501 to 25,000	1,900
Over 25,000	Add 2% of the next 25,000
Over 50,000	Add 1% of the next 50,000
Over 100,000	Add .5%

In any case where an attorney claims he or she is entitled to a fee in excess of any of the above amounts, the attorney may apply to the court therefor and present proof to support the claim. The court will determine the reasonable fee amount according to proof.

In contested matters, the court will determine the reasonable attorney fees as proved by the prevailing party after trial in accordance with section 1021 et seq. of the Code of Civil Procedure, sections 1717 and 1717.5 of the Civil Code, and the California Rules of Court, rule 3.1702.

(Adopted 1/1/1998; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.5.12

Elisors

Where one of the parties will not or cannot execute a document necessary to carry out a court order, the clerk of the court, or his or her authorized representative or designee may be appointed as an elisor to sign the document. An application for appointment of an elisor may be made ex parte. When applying for an appointment of an elisor, the application and proposed order must designate "The clerk of the Court or His/Her Designee" as the elisor and indicate for whom the elisor is being appointed. The application must not set forth a specific court employee. The declaration supporting the application must include specific facts establishing the necessity for the appointment of the elisor. If the elisor is signing documents requiring notarization, the applicant must arrange for a notary public to be present when the elisor signs the document(s).

(Adopted 1/1/1999; Rev. 1/1/2000; Renum. 7/1/2001; Rev. 1/1/2005; Renum. 1/1/2006)

Rule 2.5.13

Sanctions

A. If any counsel, a party represented by counsel, or a party in pro per, fails to comply with any of the requirements of Division II of the San Diego Superior Court Rules, the court, on motion of a party or on its own

motion, may strike all or any part of any pleadings of that party; or dismiss the action or proceeding or any part thereof; or enter a judgment by default against that party; or impose other penalties of a lesser nature or otherwise provided by law; and may order that party or his or her counsel to pay to the moving party the reasonable expenses in making the motion, including reasonable attorney fees.

B. If a failure to comply with the rules in Division II is the responsibility of counsel and not of the party, any penalty must be imposed on counsel and must not adversely affect the party's cause of action or defense thereto. (Adopted 7/1/2002; Rev. 1/1/2005; Renum. 1/1/2006)

APPENDIX A

Deleted

(Adopted 1/1/1998; Rev. 7/1/2001; Rev.7/1/2003; Rev. 1/1/2006; Rev. 1/1/2008; Del. 1/1/2009)

APPENDIX B

Deleted

(Adopted 1/1/1998; Rev. 7/1/2001; Rev. 7/1/2003; Rev. 1/1/2007; Del. 1/1/2009)